

JEROME BAUMGARTNER 12/19/2018

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1 IN THE UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF MISSOURI
3 EASTERN DIVISION
4
5
6 MALEEHA AHMAD, et al.,)
7 Plaintiffs,)
8 vs.) Cause No.
9 CITY OF ST. LOUIS, MISSOURI,) 4:17-cv-2455-CDP
10 Defendant.)
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12
13
14

15 DEPOSITION OF JEROME BAUMGARTNER
16 Taken on behalf of the Plaintiff
17 December 19th, 2018
18

19 Jamie Jo Kinder, CCR 842, CSR 084.003306
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Exhibit T

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1 IN THE UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF MISSOURI
3 EASTERN DIVISION

4 MALEEHA AHMAD, et al.,)
5 Plaintiffs,)
6 vs.) Cause No.
7 CITY OF ST. LOUIS, MISSOURI,) 4:17-cv-2455-CDP
8 Defendant.)

9
10 DEPOSITION OF WITNESS, JEROME BAUMGARTNER,
11 produced, sworn, and examined on the 19th day of December,
12 2018, between the hours of 1:22 o'clock in the afternoon
13 and 2:31 o'clock in the forenoon of that day, at St. Louis
14 City Hall, 1200 Market, Room 314, St. Louis, MO, before
15 Jamie Jo Kinder, Missouri CCR 842, Illinois CSR 084-00306,
16 a Certified Court Reporter within and for the State of
17 Missouri, in a certain cause now pending before the United
18 States District Court, Eastern District of Missouri,
19 Eastern Division, wherein MALEEHA AHMAD, et al., are the
20 Plaintiffs, and CITY OF ST. LOUIS, MISSOURI is the
21 Defendant.

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1 A P P E A R A N C E S

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1 (Deposition commenced at 1:22 p.m.)

2 IT IS HEREBY STIPULATED AND AGREED, by and between
3 counsel for Plaintiffs and counsel for Defendant, that the
4 deposition of JEROME BAUMGARTNER may be taken in shorthand
5 by Jamie Jo Kinder, CCR, CSR, a notary public and shorthand
6 reporter, and afterwards transcribed into typewriting; and
7 the signature of the witness is expressly reserved.

8 * * * * *

9 JEROME BAUMGARTNER,
10 of lawful age, being produced, sworn and examined on
11 behalf of the Plaintiffs, deposes and says:

12 EXAMINATION

13 QUESTIONS BY MS. STEFFAN:

14 Q Good afternoon, Mr. Baumgartner.

15 A Hello.

16 Q I introduced myself earlier, but I'm Jessie
17 Steffan. I'm one of the plaintiffs' attorneys, which is
18 Ahmad versus the City of St. Louis. I'm going to ask you
19 to state and spell your name for the record?

20 A Jerome, J-E-R-O-M-E, Baumgartner,
21 B-A-U-M-G-A-R-T-N-E-R.

22 Q Have you been deposed previously?

23 A For this case?

24 Q For any case.

25 A Yes.

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1 Q So you generally understand how a deposition
2 works?

3 A Yes.

4 Q I'll go over a couple of quick ground rules.
5 Let's try not to talk over one another so that the court
6 reporter can take down a record, and when you're answering
7 I would ask for you to answer verbally, so yes or no rather
8 than saying uh-huh or shaking your head. If you don't
9 understand a question that I have asked, please ask me to
10 clarify, otherwise if you respond I'll assume that you
11 understood the question; is that fair?

12 A Okay.

13 Q We probably won't be here long enough to take
14 a break, but if you need to take a break, that's fine. If
15 there is a question hanging out in the air, I would ask
16 that you respond to that question before we go on a break.
17 Do you understand?

18 A Yes.

19 Q Have you taken any medication, drugs or
20 alcohol today that would affect your ability to testify
21 truthfully or to remember things?

22 A No.

23 Q What did you do to prepare for this
24 deposition?

25 A Just looked over the documents that were a

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1 part of the declaration that I signed several months ago.

2 Q Other than that, did you do anything to
3 prepare?

4 A No.

5 Q Did you talk to anyone in preparation for this
6 deposition?

7 A Just spoke with --

8 MS. DUNCAN: Other than counsel?

9 Q (By Ms. Steffan) Other than your attorney,
10 yes.

11 A No.

12 Q How old are you?

13 A 44.

14 Q And what is your position with the police
15 department?

16 A Manager of planning and research.

17 Q Is that the same position that you held during
18 the events at issue in this case in September of 2017?

19 A Yes.

20 Q What is your educational background?

21 A Doctorate in psychology, master of legal
22 studies, both from the University of Nebraska.

23 Q Are you from Missouri originally?

24 A Yes.

25 Q So I understand, you're not a commissioned

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1 officer; is that correct?

2 A Correct.

3 Q You're a civilian employee of the police
4 department?

5 A Yes.

6 Q When did you begin your employment with the
7 police department?

8 A July of 2005.

9 Q Have you worked there continuously since then?

10 A Yes.

11 Q When did you earn your doctorate?

12 A 2003.

13 Q What did you do between 2003 and 2005?

14 A I did some private consulting work initially
15 when I came back home to St. Louis for some people doing
16 dissertations and then I had a job for several months with
17 the St. Louis City Health Department.

18 Q And I assume you did a dissertation as part of
19 your doctorate degree?

20 A Yes.

21 Q What did that relate to?

22 A Essentially like threat assessments to public
23 officials.

24 Q Is that what you would say your specialty or
25 your area of interest was during your academic career?

1 A Area of interest was generally violence risk
2 assessment and we had some opportunities to do work with a
3 number of law enforcement agencies while I was in graduate
4 school, one of them happened to be the U.S. Capital Police
5 in Washington, D.C. So we examined some characteristics of
6 contacts and contactors with federal legislators.

7 Q Do you apply your -- what you learned as part
8 of your academic training in your job now?

9 A Yes.

10 Q How does that relate to what you do now?

11 A What relates most to the current job probably
12 is research skills, analytic skills. Rarely do
13 psychological topics come up or come across any work that I
14 do. So it's really mostly I think the behavioral science
15 research background.

16 Q And your title is director of planning?

17 A Planning and research manager.

18 Q What do you do on a day-to-day basis? What
19 does that mean?

20 A Units like ours in police departments do a
21 whole variety of things. They could be very narrow in
22 scope in some areas and very broad in scope in others. Our
23 agency planning and research comprises like three separate
24 distinct kind of subsections. The planning and research
25 section itself which focuses on, I'm going to call it, like

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1 management analysis work, executive level kind of research,
2 data analysis, work for command staff. We also manage the
3 policies and procedures in the department and we will do a
4 host of other, I don't know, like resource allocation
5 analyses, a variety of like performance assessment
6 research, not individual officer performance assessment,
7 not like an annual performance review kind of thing, but
8 like, you know, measurement of, you know, attempting to
9 reach some sort of goal, like response times to calls for
10 service, things like that.

11 The secondary is accreditation, so the
12 department's accreditation through the Commission on
13 Accreditation for Law Enforcement Agencies or CALEA is
14 managed in our shop. We have accreditation across law
15 enforcement training academy and one for communications, so
16 there are three separate areas.

17 And then the third area is we have a set of
18 staff who do the uniform crime reporting to the state and
19 the FBI, and so they apply the FBI and state crime
20 reporting standards and rules to police reports that they
21 read and that data gets coded then into a separate system
22 which we use for eventual reporting to the state and to the
23 federal government.

24 **Q To summarize what you just said, your office**
25 **has essentially three main duties, planning and research,**

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1 which you described several aspects of, the accreditation
2 through CALEA, including the academy and communications,
3 and the uniform crime reporting; is that right?

4 A Yes.

5 Q Are there any other main big duties that your
6 office undertakes?

7 A No. That probably encompasses everything.

8 Q And you aren't the head of that office; is
9 that right?

10 A Yes.

11 Q Is that the position that you started at when
12 you came to the police department or did you start in a
13 lower position?

14 A Started in a lower position.

15 Q What was the first position that you undertook
16 when you started your employment with the police
17 department?

18 A It's called police planner two, and it was
19 essentially the number two in the unit, and I held that
20 position until the existing or the manager at the time who
21 hired me left for medical reasons in late 2014, and then he
22 was on extended leave for a while where I was essentially
23 covering in an interim basis until I think it was 2016.

24 Q Who do you report to?

25 A Currently?

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1 Q Yeah. Let's start with currently, who do you
2 report to now?

3 A Currently we have an arrangement where our
4 units report to a major, Major Eric Larson, in the
5 department and that has been since the new chief was hired.

6 Q If I remember correctly, that was
7 December 2017; is that right?

8 A His hire date? I can't remember his hire
9 date. Everything seemed to become effective or things
10 started happening more in January. So I feel like it was
11 more mid January.

12 Q Okay. Prior to reporting to Major Larson, who
13 did you report to in your office?

14 A Prior to that for a relatively brief period of
15 time to the assistant chief of police, Colonel O'Toole.

16 Q You said that was for relatively brief periods
17 of time?

18 A Yes.

19 Q How long did you report to Colonel O'Toole?

20 A Maybe a year. I don't remember exactly how
21 long.

22 Q I'm going to show you a document real quick.
23 Have you seen a document that looks like this previously?

24 A Yes, I have seen organizational charts that
25 look like this.

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1 Q I'll go ahead and call this Baumgartner
2 Exhibit 1.

3 (Baumgartner Deposition Exhibit No. 1 marked
4 for identification.)

5 Q (By Ms. Steffan) If you could keep that in
6 front of you for a second. I'm just going to ask you a
7 couple of questions about it. You are listed on this
8 chart; is that right?

9 A Yes.

10 Q This chart is dated from September of 2017; is
11 that right?

12 A It appears to be, yes.

13 Q And is it accurate to say that at the time
14 this chart was created in September of 2017 you were
15 reporting to Colonel O'Toole, who was at that time the
16 assistant chief; is that right?

17 A He was the assistant chief, but at this period
18 of time I believe he was also the acting police
19 commissioner.

20 Q Okay. As far as your office goes, do you see
21 anything on this chart that looks incorrect about what your
22 chain of command was at that time?

23 A No.

24 Q At this time, you no longer report to a person
25 in the assistant chief position, instead you report to a

1 major; is that right?

2 A Yes.

3 Q And who does, if you know, who does Major
4 Larson report to?

5 A I think in the current organizational
6 structure, that major role is reporting directly to the
7 chief's office, I believe.

8 Q Is there an assistant chief now?

9 A Yes.

10 Q Who is the assistant chief now?

11 A Colonel O'Toole.

12 Q Do you know why you -- your office now reports
13 to Major Larson and not to assistant Chief O'Toole?

14 A No.

15 Q Did you make the decision to change the
16 organizational structure?

17 A No.

18 Q Do you know who made that decision?

19 A The current chief.

20 Q Do you know when he made that decision?

21 A No.

22 Q Just after he took his chiefship; is that fair
23 to say?

24 A Yes.

25 Q Have your office duties changed at all since

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1 Chief Hayden took over as the police chief?

2 A No.

3 Q How many staff are in your office?

4 A Currently?

5 Q Yeah. Let's start with currently.

6 A Including myself?

7 Q Yes.

8 A Including anyone who is detached -- what's
9 called detached there on a temporary basis?

10 Q When you're not detached, is it called
11 assigned? Is that the other term that you would use, if
12 it's a more permanent position?

13 A Commissioned staff occasionally getting
14 detached temporarily from their home assignment to another
15 assignment.

16 Q Yes.

17 A So that's the situation I'm talking about.

18 Q Okay. So does your -- Sometimes you have
19 commissioned staff who is detached from somewhere else; is
20 that right?

21 A Every so often.

22 Q Okay. Is your office primarily staffed of
23 civilian employees?

24 A Yes.

25 Q So let's exclude commissioned officers for a

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1 while or for this point. How many civilian staff work in
2 your office? Really I'm just trying to get an approximate
3 number. So if it's not exactly precise, that's fine.

4 A Ten.

5 Q Were there also 10 civilian staff in the fall
6 of 2017 or has your office gotten smaller or larger?

7 A Smaller.

8 Q How many staff were there in the fall of 2017?

9 A I don't remember exactly.

10 Q More than 10, but not a lot more than 10?

11 A Yes. Could have been 12.

12 Q Thinking back, if you recall, to September and
13 October of 2017, did you have any commissioned officers who
14 had been detached to your office at that time?

15 A At that time, no.

16 Q And do you have any now?

17 A Yes.

18 Q How many commissioned officers do you have
19 detached to your unit now?

20 A One.

21 Q Who is that officer?

22 A Lieutenant Vonda Rushing.

23 Q She's female?

24 A Yes.

25 Q What is her role in your unit?

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1 A She's currently in a limited duty status due
2 to medical reasons. So she was sent to us to help review
3 some policies and updates on policies essentially.

4 Q Does Major Larson interact with your office on
5 a day-to-day basis? Does he do that regularly?

6 A Not day-to-day.

7 Q Do you have a formal way of checking in with
8 Major Larson about what your office should be doing, like a
9 weekly meeting or a weekly e-mail or something like that or
10 is it more an ad hoc checking?

11 A More ad hoc.

12 Q Does your office produce regular reports to
13 the command staff of the police department?

14 MS. DUNCAN: I'll object as vague as to
15 reports.

16 Q (By Ms. Steffan) Do you understand what I'm
17 asking?

18 A No.

19 Q Okay. Do you -- Is there some mechanism for
20 reporting on the activities of your office that you give to
21 the commissioned command staff of the police department on
22 a regular basis? For example, I think the police
23 department itself produces an annual report that they make
24 publically available. Does your office have something like
25 that where you regularly give updates about what your

1 office is doing to command staff?

2 A No.

3 Q How do you find out what your, for lack of a
4 better word, your commander would like your office to be
5 doing? How do they convey information to you?

6 A Our office has moved a number of times in the
7 last couple of years in terms of who we're reporting to.
8 All of the years that I had been in the unit we had
9 reported directly to the chief, Chief Dodson, then moved
10 our office to reporting to the assistant chief. So as a
11 result, we get a lot of requests for projects, what have
12 you, coming directly from the chief's office. Sometimes,
13 though, requests may come through another commander. Even
14 in the current arrangement, things don't always come
15 directly through Major Larson. If you were to look at a
16 current organizational chart, we don't actually even report
17 to Larson on that chart. It's an arrangement that has just
18 been placed. He's over a different organizational function
19 now. We're technically under a different major, but we
20 report to -- or I shouldn't say report. We work with
21 Larson. I don't know that we are quite reporting. We work
22 with Larson because I think the chief kind of wanted to
23 leverage some of his skill sets and background to look at
24 policies and kind of review things as they came in that end
25 up touching us frequently. So requests can come from a

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1 number of different sources directly.

2 Q And do they -- If, let's say, the chief's
3 office has a request for you, does somebody just walk down
4 there and tell you so or does --

5 A It could be that way. It could be via phone
6 call, e-mail, conversation, a host of different ways.

7 Q And where is your unit located? I think you
8 said so before, but are you in police headquarters?

9 A Yes.

10 Q When earlier you testified that your office
11 had these sort of three main responsibilities, one of which
12 was planning and research; is that correct?

13 A Yes.

14 Q When you testified about resource allocation,
15 is that more determining how resources should be allocated
16 or sort of inventorying how they are allocated? In other
17 words, are you making a decision? Is your office making a
18 decision about how to allocate resources or are you just
19 gathering data about how resources have been allocated?
20 Does that make sense?

21 A Yes. That work, which only happens
22 sporadically, really is focused on workload assessment and
23 kind of the amount of resources necessary to handle a
24 particular amount of work given the particular functions of
25 a given unit or what have you. So it is not about tactical

1 event level, incident level allocation.

2 **Q Do you -- Does your office make**
3 **recommendations about how workloads should be allocated?**

4 A Regular recommendations? No, not regular
5 recommendations.

6 **Q You might do so in sort of an individual**
7 **situation, is that what you're saying? You might do it**
8 **infrequently but not regularly?**

9 A Infrequently there will be -- either a project
10 requested or a need to or a request to examine the workload
11 needs of a particular unit. Communications, for example,
12 comes up frequently. Staffing at the call-taker agent
13 position given the number of calls that come in and times
14 spent on calls and the variety of factors like that.
15 Periodically there is no given or specific intervals for
16 it, but we periodically looked at the allocation of
17 officers to the districts based upon the set number of
18 officers available to allocate based upon workloads. Those
19 sorts of projects and endeavors.

20 **Q Another one of the categories that you listed**
21 **as part of planning and research was the management of the**
22 **policies and procedures of the police department; is that**
23 **correct?**

24 A Yes.

25 **Q Is that an area in which your office makes**

1 **recommendations?**

2 A Sometimes.

3 Q So sometimes your office might make a
4 **recommendation about what a policy or procedure should**
5 **include; is that correct?**

6 A Yes.

7 Q Among the policies and procedures that your
8 **office manages are the special orders; is that right?**

9 A Yes.

10 Q And when we say that you manage the special
11 **orders, what does that mean?**

12 A That means when changes are formally
13 incorporated into special orders or when a new special
14 order is developed, created, that work and the process of
15 doing all of that can funnel and functions through our
16 office.

17 Q So your office participates in the drafting of
18 **special orders or the amending of special orders?**

19 A Yes.

20 Q How do you -- How does your office decide what
21 **a special order should include?**

22 A That will depend on the topic, the issue that
23 any particular order, policy, is covering. Much of the
24 work on special orders involves existing orders and
25 revisions to those orders, and much of the content is

1 really driven by subject matter, experts within a
2 department. Occasionally there will be a need or request
3 to kind of examine either model policies, sample policies
4 from other departments, but by and large a lot of the
5 content is really derived from subject matter experts who
6 can tell us what needs to be in the policies and we
7 essentially manage the writing and kind of construction of
8 that and disseminate through the review process.

9 **Q Where are special orders maintained? Are they**
10 **electronic, are they on a computer terminal or are they**
11 **hard copies?**

12 A They are electronically maintained. They are
13 located for everyone to access in two specific places, one
14 is on the department's intranet and the other is through
15 the department's Policy Acknowledgment System with the
16 acronym PAS.

17 **Q You anticipated my next question, which is**
18 **what is the Policy Acknowledgment System? Is that a kind**
19 **of software?**

20 A Yes, Policy Acknowledgment System is a piece
21 of software developed by Regis that allows the department
22 and other departments in the region to distribute
23 documents, whatever they may be, and get receipt of --
24 acknowledgment of receipt from the recipients.

25 **Q So if a decision is made for a document to be**

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1 disseminated through the PAS system and, say, I'm the
2 intended recipient of the document, how do I access that?
3 What do I see on my interface?

4 A Through the PAS system? You'll get a --
5 You'll get an e-mail indicating that something has been
6 changed, added, whatever, in PAS that's available for you
7 to review and acknowledge in PAS. You would either then be
8 able to click within the e-mail or use your PAS, you know,
9 web connection. It's a web-based platform to go into PAS.
10 Sign in. First page will show unsigned policies or
11 whatever it may be that was distributed in that fashion.
12 You review it and then you need to sign for that document.

13 Q Do you sign electronically?

14 A Yes.

15 Q You just type in your name and press okay, is
16 that what happens?

17 A Yes. Yes. I think it may be a name and
18 password, but I'm not a hundred percent sure about the
19 password.

20 Q Does the PAS system ensure that the recipient
21 reviewed the document that was disseminated?

22 A Does it ensure?

23 Q For example, you have seen probably like if
24 you're downloading a new app and you have to accept terms,
25 it makes you scroll down to the end of the terms before you

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1 **can click okay. Is there something similar to that in the**
2 **PAS system?**

3 A There is a function that requires -- that can
4 require a test be completed that is only applied to certain
5 documents within the system; however, the rest you -- your
6 signed receipt is all that we would get.

7 Q **And once the document has been opened, you can**
8 **sign; is that right?**

9 A You technically could sign without opening a
10 document.

11 Q **Okay. Do you decide to send documents through**
12 **the PAS system or is that someone else who decides that?**

13 A I would say that that's probably more
14 accurately described as a command level decision about what
15 goes through the PAS system. So all special orders go
16 through the PAS system when they are initially issued or
17 revised and any other directives are always funneled
18 through the PAS system. But anything else that is sent
19 through the PAS system is really a command decision.

20 Q **Is there a way through the PAS system to send**
21 **documents to a portion of the department or is it all**
22 **department, no department?**

23 A There is a way to send documents to subgroups.

24 Q **Is that done regularly?**

25 A Yes.

1 Q Are the subgroups, do those correspond to
2 units of the force? For example, are the districts
3 subgroups?

4 A The groupings in the system are based upon
5 departments, Microsoft active directory system that IT
6 maintains. There are a couple of ad hoc groups that have
7 been created for various specialized reasons. I would say,
8 though, that the biggest distinction among groups involves
9 a set of monthly policies that are disseminated to like
10 commission only as opposed to commission and civilian.

11 Q If I understand correctly, the things that are
12 distributed monthly to commissioned personnel are the
13 sexual harassment policy, CIT, the use of force policy
14 statement, is there anything else?

15 A Pursuit policy.

16 Q And pursuit. Are those -- Those are
17 distributed monthly; is that right?

18 A Yes. There is a monthly summary document that
19 is distributed to them, not the entire order, but a summary
20 document of, I guess, key topics.

21 Q For each of those four things there is a
22 separate summary, is that what you're saying?

23 A Yes.

24 Q Are they distributed all in one e-mail, you
25 know?

1 A No.

2 Q It's four different e-mails?

3 A (Witness nods head affirmatively.)

4 Q Four different disseminations?

5 A Yes.

6 Q And that is all the things that are
7 distributed monthly; is that right?

8 A With regard to special orders?

9 Q Special orders or directives from command
10 staff to commissioned officers.

11 A Yes, those are the only things distributed
12 through PAS on a regular monthly basis.

13 Q Do those distributions come with a test?

14 A Yes.

15 Q All four of them do?

16 A Yes.

17 Q What is the test like?

18 MS. DUNCAN: Object as to vague. You can
19 answer.

20 A The -- It is a set of either multiple choice
21 questions or dichotomous yes-no set of questions that are
22 presented. A person has to get all the questions correct
23 in order to be able to sign for that document then.

24 Q (By Ms. Steffan) How many questions are there?

25 A That varies by policy for those specific ones.

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1 I can't remember offhand how many specifically each of them
2 requires. I believe it might be three a piece.

3 Q Is it fair to say it's somewhere around three?

4 A Yes.

5 Q What happens if a person to whom a document
6 has been disseminated doesn't sign, doesn't do the test or
7 doesn't sign?

8 A Commanders are able to run an exception report
9 for either individuals or for their entire unit to see what
10 documents have been disseminated through PAS have not been
11 signed for by particular individuals.

12 Q Have you run an exception report like that?

13 A Yes.

14 Q Do you do that regularly or did you do so at
15 the request of someone or do you just do it every month or
16 something?

17 A At the request of people. I will run them
18 occasionally for my own staff.

19 Q Is there -- When a document is disseminated
20 through the PAS system, is there a deadline by which the
21 person needs to acknowledge receipt?

22 A There is no stated deadline in the e-mail or
23 anywhere else specifically.

24 Q Based on your experience in the unit, do
25 people generally read the documents in a reasonable time

1 **and sign for them?**

2 MS. DUNCAN: I'm going to object as
3 speculation. Subject to that, you can answer.

4 A I really couldn't say on average how quickly
5 people generally review and acknowledge documents in PAS.

6 Q **(By Ms. Steffan) Based on your experience, do**
7 **you know if anyone has ever been disciplined for not doing**
8 **so?**

9 A I am not sure.

10 Q **You can't think of an instance right now?**

11 A No.

12 Q **Do you know the court in this case entered a**
13 **preliminary injunction?**

14 A Yes.

15 Q **Have you read it?**

16 A Yes.

17 Q **Has it been disseminated through the PAS**
18 **system?**

19 A No.

20 Q **Has anyone requested that your office**
21 **disseminate it through the PAS system?**

22 A No.

23 Q **Have any special orders been amended as a**
24 **result of the preliminary injunction?**

25 A In this case?

1 Q In this case.

2 A No.

3 Q Has anyone recommended that that happen, to
4 your knowledge?

5 A Not to my knowledge.

6 Q And no new special orders have gone out as a
7 result of the preliminary injunction; is that right?

8 A Correct.

9 Q Based on your knowledge of the protests in
10 September and October of 2017, do you know whether any
11 special order has been amended or created as a result of
12 the protests?

13 A No.

14 Q No, you don't know or, no, it hasn't?

15 A No, they have not been.

16 Q Are special orders available to the public?

17 A Yes.

18 Q How would a member of the public view special
19 order?

20 A Currently via a request to the department or
21 to the city.

22 Q I'm going to show you a document now.

23 (Baumgartner Deposition Exhibit No. 2 marked
24 for identification.)

25 Q (By Ms. Steffan) I'll label this Baumgartner

1 2, Exhibit 2. So you have had a chance to page through
2 those sort of sheets of paper that I have handed you;
3 right?

4 A Yes.

5 Q Do you recognize all of the pages of the
6 document?

7 A Yes.

8 Q What is it?

9 A It is a declaration about the existence of
10 these particular orders as of a given date and that they
11 were distributed -- those orders were distributed by the
12 PAS system.

13 Q And you have seen this declaration before;
14 correct?

15 A Yes.

16 Q And you signed it; right?

17 A Yes.

18 Q Do you see anything that is inaccurate or
19 wrong in the declaration?

20 A Yes, it all seems to be correct.

21 Q And just for clarity, where this declaration
22 says Policy Acknowledgment System, that is the PAS system
23 we have been talking about; right?

24 A Yes.

25 Q If you could take a look at paragraph five,

1 Subpart B, which is on the first page. This says use of
2 force policy statement. Do you see that term in quotes
3 there?

4 A Yes.

5 Q Is that the summary that you mentioned
6 earlier?

7 A Yes.

8 Q Who writes the use of force policy statement?

9 MS. DUNCAN: I'm going to object as vague. Do
10 you mean the portion that is sent out to the monthly?

11 Q (By Ms. Steffan) This says that a use of force
12 policy statement is sent monthly, and that's true; correct?

13 A Yes.

14 Q Who wrote the use of force policy statement?

15 A Offhand I don't recall.

16 Q Was -- Have there been any changes to the use
17 of force policy statement since you wrote this declaration?

18 A No.

19 Q The content is the same every month?

20 A Yes.

21 Q Was the statement something written while you
22 were at your office or did it exist before you arrived?

23 MS. DUNCAN: I'm going to object as vague.

24 What do you mean? When he was in his position as director?

25 Q (By Ms. Steffan) Just since you have been

1 employed by the police department and would have knowledge
2 of these summaries or policy statements, did they exist
3 before you got there or did you -- did your office write
4 them while you were there? I'm trying to figure out where
5 it came from, this policy statement.

6 A I don't know when the monthly policy statement
7 was developed. That was before being in my current
8 position and well before the dates of the events of this
9 case.

10 Q How long is the policy statement or summary?

11 MS. DUNCAN: I'm going to object as vague.
12 Subject to that, you can answer.

13 A Offhand I don't recall.

14 Q (By Ms. Steffan) Is that one page or more than
15 one page?

16 A More than a page.

17 Q How -- Do you recall how big Special Order
18 1-01 is?

19 MS. DUNCAN: Objection as to vague. Subject
20 to that, you can answer.

21 A 1-01 is made up of -- currently made up of 13
22 sections, separate sections. I can't remember the total
23 page count.

24 Q (By Ms. Steffan) Is it fair to say that the
25 use of force policy statement is considerably shorter than

1 Special Order 1-01?

2 A Yes.

3 Q The other three special orders, I think they
4 are all special orders that are disseminated monthly to
5 commissioned personnel, they, I think you testified
6 earlier, also all have summaries; correct?

7 A Yes.

8 Q Do you know, not to belabor the point, do you
9 know who wrote those summaries or when they were written?

10 A I do not specifically, no.

11 Q Okay. If you take a look at paragraph six in
12 your declaration, which again is Exhibit 2. This statement
13 remains accurate; is that right?

14 A Yes.

15 Q Has that temporary directive that is
16 referenced in this statement been disseminated through the
17 PAS system ever since January 7th, 2015?

18 A No.

19 Q Was there a test attached to it when it was
20 disseminated?

21 A No.

22 Q If you take a look at paragraph eight. If I
23 read this correctly, this is saying the temporary directive
24 became a section of Special Order 1-01; is that correct?

25 A Content of that temporary directive became

1 part of Section 13 of Special Order 1-01.

2 Q Okay. Has Section 13 of Special Order 1-01
3 been disseminated ever?

4 A Yes.

5 Q I see that there are references to
6 disseminations in paragraph 10 here in October of 2016 and
7 August of 2017. Other than those two times, has Section 13
8 been disseminated?

9 A Yes.

10 Q When has it been disseminated?

11 A When it was originally created July of 2015 as
12 in paragraph eight.

13 Q Okay. Other than those three times, has it
14 been disseminated?

15 A No.

16 Q If you look at paragraph 11, it references
17 Special Order 1-06 titled recording of police activity?

18 A Yes.

19 Q Was that disseminated through the PAS system?

20 A Yes.

21 Q Is that when it was created in November of
22 2013?

23 A Yes.

24 Q Has it been disseminated through the PAS
25 system since then?

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1 A I don't know offhand if it had been. It would
2 depend on whether it had been revised since then, which I
3 don't think it has been.

4 Q If it has not been revised, it would not have
5 been disseminated; is that correct?

6 A Not necessarily.

7 Q There is other information you would need to
8 know in order to decide if it had been disseminated, is
9 that what you're saying?

10 A It's -- Yes. It could be possible that a
11 portion of an order might be sent out as a reminder to
12 somebody to staff, but the order itself as a whole has not
13 been redisseminated.

14 Q Do you know if anything was disseminated
15 through the PAS system as a result of the Stockley verdict
16 protests?

17 A I am not aware of anything being disseminated.

18 Q We have talked a little bit the four things
19 that are monthly to commissioned personnel. Who decided
20 that those things would be disseminated every month?

21 A I don't know.

22 Q Do you know when that started, that monthly
23 dissemination system?

24 A I don't. I can only say that it would have
25 been sometime after 2006.

1 Q Is that when the software became available?

2 A Started using PAS in 2006.

3 Q Have you or your staff ever recommended that
4 other things be disseminated monthly? Directives?
5 Anything?

6 A There have been some suggestions of other
7 documents being disseminated via PAS as a way to document
8 their distribution and receipt by staff.

9 Q Are any of the documents that have been
10 suggested to be disseminated on a monthly basis related to
11 protests or the First Amendment?

12 A Yes. Yes.

13 Q What documents?

14 A A reminder message, reminder notice was
15 disseminated regarding interactions with journalists. I
16 can't remember exactly when that occurred. I want to say
17 it was sometime in 2017, earlier in 2017, and it was -- I
18 think it stemmed from an agreement between the city and an
19 individual or set of individuals. But it was not one of
20 these orders that are part of this declaration. It was not
21 a segment of one of those orders.

22 Q Was it something that was -- became like a
23 permanent guideline or just a reminder message like "hey"?

24 A It was a reminder of a statement made in
25 another order.

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1 Q In a police department order or court order?

2 A Yes.

3 Q Police department order?

4 A Yes.

5 Q Other than -- Well, let me back up. That was
6 disseminated one time; correct, but not regularly, not
7 monthly or something like that?

8 A I think just once.

9 Q Other than that reminder notice, have other
10 documents been suggested to be disseminated relate to
11 protests or to the First Amendment?

12 A Not that I recall.

13 Q If I understand your declaration correctly,
14 the temporary directive of the court itself was
15 disseminated through the PAS system; right? The court
16 order that was disseminated; is that right?

17 A I'm sorry?

18 Q Looking at paragraph six, which incorporates I
19 guess Exhibit B, this what is reflected here in Exhibit B,
20 this is what a person to whom that was disseminated would
21 see on their screen, it would look just like this?

22 A Yes, this is -- this is the directive that was
23 disseminated.

24 Q Got it.

25 A Following the restraining order.

1 Q Okay. Forgive me if I have asked you this
2 already, but who decided that this would be disseminated?

3 A Chief of police as indicated on the top left
4 corner of that directive would have authorized and chosen
5 to disseminate through the agreement through the PAS
6 system.

7 Q Was that decision based on the recommendation
8 of anyone else or did it originate with the chief?

9 A I don't remember anything specific to
10 recommendations regarding it being disseminated in any
11 particular way, but all directives are disseminated in this
12 fashion.

13 Q What's the difference between a directive and
14 a special order?

15 A Directive really means a temporary directive,
16 something that needs to be put in to place quickly and not
17 necessarily go through the review process and more lengthy
18 process that an order would often take to develop and
19 write. Usually the assumption is that at some point the
20 content of that directive will be incorporated into a
21 special order down the road.

22 Q Is there something more permanent than a
23 special order?

24 A No.

25 Q And that's what happened with this directive,

1 it was incorporated into the text of a special order?

2 A Yes.

3 Q Did your office audit the PAS system to ensure
4 that it's working correctly?

5 A Explain what you mean by working correctly.

6 Q Do you -- I mean, are there glitches in the
7 software ever?

8 A In terms of its recording of receipt and
9 acknowledgment, no.

10 Q And do you -- You said the PAS system was
11 created by Regis; right?

12 A Yes.

13 Q And it's used by multiple police departments?

14 A Yes.

15 Q And a police department has to show that their
16 officers are aware of certain policies for the purpose of
17 accreditation; is that right?

18 A That is one reason departments may be using
19 it.

20 Q So you use the PAS system to demonstrate that
21 officers know about things when you are seeking
22 reaccreditation through CALEA; correct?

23 A That is one of the ways, yes.

24 Q Do you -- So putting aside like a software
25 audit, do you run an exception report or something to show

1 that officers actually did acknowledge a policy when you
2 are seeking reaccreditation?

3 A I think those reports can be run for the
4 purpose of accreditation, but they aren't necessarily run
5 on any regular interval for that sake.

6 Q Okay. If I could ask you to look at the page
7 that has Defendant's Exhibit C written on the bottom
8 right-hand corner.

9 A Uh-huh (yes). Yes.

10 Q This is the first page of Section 13 of
11 Special Order 1-01; is that right?

12 A Yes.

13 Q Did you participate in the drafting of this
14 special order?

15 A Yes.

16 Q To the best of your knowledge, is it still
17 enforced now?

18 A To the best of my knowledge it is.

19 Q Okay. Do you see anything in this special
20 order that you think is problematic or inappropriate?

21 A No.

22 Q Has anyone to whom you report or your office
23 works with told you that they think that there is anything
24 in this special order that is either problematic or
25 inappropriate?

1 A No.

2 Q What about -- I would ask you to turn to
3 Defendant's Exhibit D, which is the beginning of Special
4 Order 1-06. Did you participate in the drafting of this
5 policy?

6 A No.

7 Q Do you know what it says? I mean, are you
8 generally familiar with what it says?

9 A Generally.

10 Q Do you think there is anything inappropriate
11 or problematic about it?

12 A Not that I'm aware of.

13 Q Based on your familiarity with the content of
14 the department's special orders, did you see or hear of
15 anything that happened during the police response to the
16 Stockley protests that you thought did not comply with the
17 special orders?

18 MS. DUNCAN: I'm going to object as
19 speculation. Lack of foundation. Subject to that, you can
20 answer.

21 A No.

22 MS. STEFFAN: I think that's all I have. If
23 you don't have any questions, I would ask for a second just
24 to check through my notes. But if you do have questions,
25 go ahead.

1 MS. DUNCAN: Could we take a quick break, just
2 like five minutes?

3 (Whereupon, a short break was taken.)

4 EXAMINATION

5 QUESTIONS BY MS. DUNCAN:

6 Q You were asked by counsel whether the
7 preliminary injunction order was disseminated through PAS
8 and I believe you answered no to that; is that correct?

9 A The preliminary injunction for the Ahmad case?

10 Q Yes.

11 A Yes.

12 Q Was it distributed -- Was the preliminary
13 injunction in Ahmad distributed?

14 A Yes.

15 MS. DUNCAN: That's the only follow-up.

16 EXAMINATION

17 QUESTIONS BY MS. STEFFAN:

18 Q How was it distributed?

19 A By the acting chief of police through e-mail
20 department-wide.

21 Q As an attachment?

22 A The injunction was attached, yes.

23 Q Did you receive that e-mail?

24 A Yes.

25 Q Was there text in the e-mail or was there just

1 an --

2 A There was text in the e-mail.

3 Q Do you recall what it said?

4 A Not clearly enough to be able to state it
5 here.

6 Q Do you know how long the text of the e-mail
7 was?

8 MS. DUNCAN: Object as to vague. Subject to
9 that, you can answer.

10 A A few sentences.

11 Q (By Ms. Steffan) Do you recall when that was
12 disseminated through e-mail?

13 A I don't.

14 Q Did you read it at that time?

15 A Yes.

16 Q Did you do anything differently in your work
17 as a result of having read that preliminary injunction?

18 A No.

19 Q Do you think the injunction was applicable to
20 your office's work?

21 MS. DUNCAN: I'm going to object as to vague.
22 Subject to that, you can answer.

23 A Applicable in a sense that the subject area
24 content may come back to us for some type of policy work
25 eventually.

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1 Q (By Ms. Steffan) Did you discuss the
2 preliminary injunction with anyone after you received it
3 from the chief via e-mail?

4 A No.

5 Q You didn't propose any special order
6 amendments or other policy changes as a result of the
7 preliminary injunction; is that correct?

8 A Yes.

9 Q To your knowledge, did anyone in your office
10 propose any changes to policies or special orders as a
11 result of the preliminary injunction from the Ahmad case?

12 A No.

13 Q To your knowledge, they did not?

14 A To my knowledge, they did not.

15 MS. STEFFAN: That's all I have.

16 MS. DUNCAN: I have no questions. Sir, you
17 can either waive your signature or read, which entails
18 waiting until the transcript is written out and then you
19 can look over it and make sure all of your answers are
20 correct. If there is any typos, you need to correct or you
21 can waive your signature. In this case, I would suggest
22 that you read it.

23 THE WITNESS: I will read it.

24 MS. STEFFAN: A PDF, that's all I need.

25 MS. DUNCAN: Etrans with the exhibits.

1 (Deposition was adjourned at 2:31 p.m.)

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CERTIFICATE OF REPORTER

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1 I, Jamie Jo Kinder, CCR No. 842, CSR No.
2 084.003306, do hereby certify that the witness whose
3 testimony appears in the foregoing deposition was duly
4 sworn by me; that the testimony of said witness was taken
5 by me to the best of my ability and thereafter reduced to
6 typewriting under my direction; that I am neither counsel
7 for, related to, nor employed by any of the parties to the
8 action in which this deposition was taken, and further that
9 I am not a relative or employee of any attorney or counsel
10 employed by the parties thereto, nor financially or
11 otherwise interested in the outcome of the action.

12

13

Certified Court Reporter

14

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1 ALARIS LITIGATION SERVICES

2 January 3, 2019

3 Ms. Abby Duncan
4 St. Louis City Counselor's Office
5 1200 Market, City Hall, Room 314
6 St. Louis, MO 63103

7 IN RE: MALEEHA AHMAD, et al. v. CITY OF ST. LOUIS,
8 MISSOURI

9 Dear Ms. Duncan,

10 Please find enclosed your copies of the deposition of
11 JEROME BAUMGARTNER taken on December 19, 2018 in the
12 above-referenced case. Also enclosed is the original
13 signature page and errata sheets.

14 Please have the witness read your copy of the
15 transcript, indicate any changes and/or corrections
16 desired on the errata sheets, and sign the signature
17 page before a notary public.

18 Please return the errata sheets and notarized
19 signature page within 30 days to our office at 711 N
20 11th Street, St. Louis, MO 63101 for filing.

21 Sincerely,

22
23 Jamie Jo Kinder, CCR, CSR

24
25 63623

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Fax: 314.644.1334

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1 ERRATA SHEET
2 Witness Name: JEROME BAUMGARTNER
3 Case Name: MALEEHA AHMAD, et al. v. CITY OF ST. LOUIS,
4 MISSOURI
5 Date Taken: DECEMBER 19, 2018
6
7 Page #_____ Line #_____
8 Should read: _____
9 Reason for change: _____
10
11 Page #_____ Line #_____
12 Should read: _____
13 Reason for change: _____
14
15 Page #_____ Line #_____
16 Should read: _____
17 Reason for change: _____
18
19 Page #_____ Line #_____
20 Should read: _____
21 Reason for change: _____
22
23 Page #_____ Line #_____
24 Should read: _____
25 Reason for change: _____
26
27 Witness Signature: _____

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1 STATE OF _____)

2

3 COUNTY OF _____)

4

5 I, JEROME BAUMGARTNER, do hereby certify:

6 That I have read the foregoing deposition;

7 That I have made such changes in form

8 and/or substance to the within deposition as might

9 be necessary to render the same true and correct;

10 That having made such changes thereon, I

11 hereby subscribe my name to the deposition.

12 I declare under penalty of perjury that the

13 foregoing is true and correct.

14 Executed this _____ day of _____,

15 20____, at _____.

16

17

18

19

20

JEROME BAUMGARTNER

21

22

23

NOTARY PUBLIC

24 My Commission Expires:

25

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